

Appl. No. : 09/836,855
Filed : April 16, 2001

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REMARKS

Claims 1-11 were pending in this application and remain pending for consideration.

Rejection Of Claims 1-11 Under 35 U.S.C. § 103

The Office Action rejected Claims 1-11 under 35 U.S.C. § 103 as being unpatentable over No. 4,388,689, issued to Hayman et al. (the Hayman patent) in view of U.S. Patent U.S. Patent No. 6,658,389, issued to Alpdemir (the Alpdemir patent). The Examiner asserts that Hayman teaches a POS register where orders can be entered, a plurality of order modules, and a router for routing the POS register to a particular order module. The Examiner asserts that Alpdemir teaches a speech-to-text conversion engine converting speech based input commands into text based commands and data, a database, a search engine, a text-to-speech conversion engine, and a speech server for communicating the speech based representation of a data item. The Examiner contends that it would have been obvious to modify the interaction between the food preparers and the CRT order modules of Hayman by incorporating a speech server as taught by Alpdemir. Applicants respectfully traverse this rejection on the basis that no motivation exists to combine the references.

Section 2143.01 of the M.P.E.P. states that "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." Additionally, in accordance with Section 2143.01 of the M.P.E.P. "the proposed modification cannot render the prior art unsatisfactory for its intended purpose." Also, "a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." M.P.E.P. § 2141.02.

The Examiner acknowledged that Hayman does not teach a text-to-speech synthesizer for converting POS entries into audible speech or a speech-to-text circuit for recognizing and converting voice commands into control signals whereby a restaurant worker speaks an audible command into a microphone and receives on headphones an audible synthesized voice reciting an order. Although Alpdemir discloses text-to-speech conversion and speech-to-text conversion in the context of a business database and search engine, the Alpdemir patent has no relation to the field of restaurant services. The Alpdemir patent relates to a business system that allows

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customers to telephone an internet database and receive audible information acquired from a search of the database.

The prior art does not provide any suggestion or motivation to modify the Hayman reference to incorporate the voice input and audible output disclosed in the Alpdemir reference. The Alpdemir patent nowhere suggests using the speech-to-text or text-to-speech conversion technology in any restaurant application. Similarly, the Hayman patent describes a "restaurant video display system" and nowhere suggests improving efficiency by using a voice interface to provide audible information or to recognize voice activated commands.

Moreover, using a voice interface to provide audible information would render the restaurant video display system described by Hayman unsatisfactory for its intended purpose. Hayman describes a system "intended for a restaurant having kitchen operations which are more complex than those found in a fast food operation" and which have multiple workers preparing each of the different items in one order. Hayman col. 1, ll.63-65. One of the benefits of the video display system described by Hayman is that multiple monitors having identical displays can be located at various food preparation stations within the kitchen so that different food preparers can all visually keep track of the completion of each item in an order at different stations. Hayman col. 2, ll. 9-11, 33-36, col. 3, ll. 60-65. Hayman's video system is intended to assist each of the individual food preparers in timing the production of their item so that the entire order is completed at the same time. Hayman col. 3, ll. 60-65. Replacing the video monitor described in Hayman with an audio interface would render the Hayman system unsatisfactory because a food preparer would no longer be able to instantly see the status of each of the items in an order being prepared by various stations. An audio interface would require listening to a list each time that updated information is desired.

Additionally, the Hayman patent teaches away from providing auditory order information in a restaurant context because Hayman repeatedly states that the information is shown visually. For example, Hayman states that "[a] separate CRT is located at each production work station so that all food producers can visually keep track of the completion of each item in a food order." Hayman col. 2, ll. 9-11. Hayman also states that "the order is visually displayed on the expediter CRT thereby alerting the food expediter to collect the items of an order in the kitchen." Hayman col. 2, ll. 14-18. Hayman further describes using visual symbols to signify to all other food

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preparers that a particular item has been completed. Hayman col. 4, ll. 13-19. Accordingly, the system described by Hayman is specifically designed to provide information visually rather than aurally.

Thus, nothing in the Alpdemir patent nor the Hayman patent provides the requisite suggestion to use a speech synthesizer system of Alpdemir in place of the video displays in Hayman to more efficiently process restaurant orders. The only suggestions to do so comes from Applicants' teaching, which the Examiner has improperly used as a predicate for the rejection.

It appears that the Examiner has impermissibly used hindsight derived from the teachings in the present application, and not the teachings of the prior art, to provide a motivation to combine the references together and reject Claims 1-11. Such usage is improper. In re Dembiczak, 175 F.3d 994, 999 (Fed. Cir. 1999) (holding the Board impermissibly used hindsight in determining obviousness); See also, M.P.E.P., Sect. 2145, part X.A.

The Applicant therefore respectfully submits that Claims 1-11 are patentably distinguished over the cited references and the Applicant respectfully requests allowance of Claims 1-11.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited. If further issues remain to be resolved, the Applicants' undersigned attorney of record hereby formally requests a personal interview with the Examiner. The Applicants' attorney can be reached at (949) 721-6365 or at the number listed below.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. For the sake of brevity, Applicants have not challenged in this response whether the Alpdemir reference is analogous art to Applicants' field of invention; however, Applicants respectfully reserve the right to do so in later filings.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped

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issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/22/06

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